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ABSTRACT

General Practice Counselors are not licensed in California. The only legislation that regulates counselors in California was enacted in 1964 to license one specialty of counseling, that of marriage, family, and child counseling. California has never licensed general practice counselors or other counseling specialties at the master's level. Examples of these specialties are career, rehabilitation, community, mental health, geriatric, community college, etc. This paper presents the current licensure situation in California; how other states handle licensure; the background of counselor licensure in California; possible solutions for California's licensure dilemma; the current effort toward licensure; and recommendations for the next steps to take. (JDM)

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The Cutting Edge for Counselors: Licensure

by
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The Cutting Edge for Counselors: Licensure

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Counselor licensing is an important issue in California. The following presents the current licensure situation in California, how other states handle licensure, the background of counselor licensure in California, possible solutions for California's licensure dilemma, the current effort toward licensure, and recommendations for the next steps to take.

The Problem

General Practice Counselors are not licensed in California. The only legislation that regulates counselors in California was enacted in 1964 to license one specialty of counseling, that of marriage, family and child counseling. These Marriage, Family and Child Counselors (MFCCs) are now called Marriage and Family Therapists (MFTs). The license is administered by the Board of Behavioral Science Examiners, which also licenses Social Workers and Educational Psychologists. (CA Business & Professions Code, Marriage, Family Child Counselors, Chapter 13) There are approximately 29,000 MFTs in California.

California has never licensed general practice counselors or other counseling specialties at the master's level. Examples of these specialties are career, rehabilitation, community, mental health, geriatric, community college, etc.

Why The Lack Of A General Practice Counselor License In California Is A Problem

The public is not protected. Without the title protection and legal definition provided by licensure, anybody could claim the title "counselor". This leaves the public with no way to differentiate qualified practitioners from untrained and unscrupulous practitioners offering counseling services. Absent licensure there is no mechanism for enforcing professional standards or for holding practitioners accountable for their actions. Without licensure consumers must go through the civil courts. Even if the court finds in favor of the client, the practitioner does not have a license to be taken away and can continue to provide services to the public.

Persons, not products, are at stake in counseling situations. When barbers and manicurists are required to be licensed in our state, how do we explain there being no legal requirements for counselors, whose task it is to work with people and their futures?

California is clearly out of sync with the rest of the country when it comes to licensure of counselors. Currently there is no portability of California credentials to and from other states. Licensed counselors coming from other states are restricted from practicing in California unless they can comply with the marriage and family therapy specialty. In turn, this unique California

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license is not recognized by other states. Professional Counselors, fully licensed in other states as general practice or mental health counselors, must specialize in marriage and family therapy to continue their practice in California. In addition to needing 12 units of marriage, family and child counseling and marital and family systems approaches to treatment in their graduate training, they must add at least two semesters in California law and ethics, 250 hours supervised experience in California, and take the California MFT exam.

State funds are being used to educate counselors who cannot get licensed to practice in California. Although students pay tuition at taxpayer-supported California state universities (or receive state/federal aid) and receive a Master's Degree in Counseling, they can only be licensed if they have specialized in marriage and family therapy as part of their graduate program. For example, school, career, rehabilitation and community college counselors who have a Master's Degree in Counseling are not eligible for licensure. School counselors, although credentialed by the State Board of Education, are restricted from practicing outside the school setting.

State-funded agencies required to hire licensed counselors are restricted to hiring marriage and family therapists or social workers, when masters prepared career or rehabilitation counselors might better fill the need and increase flexibility for these agencies.

What Other States Do About Counselor Licensure

Forty-five states, plus Washington D.C., have passed some form of counselor credentialing legislation. This general practice license is most often called the Licensed Professional Counselor (LPC). A few states use Certified Professional Counselor (CPC) and a few states specifically regulate mental health counseling with a credential such as Licensed Mental Health Counselor (LMHC). California, Hawaii, Nevada, Minnesota, New York have no counselor licensure, although New York is close. There are about 60,000 Licensed Professional Counselors (LPCs) in the U.S. licensed by their states.

Thirty-seven states regulate Marriage Family Therapists (MFTs). Some states have a separate board for MFTs; other states regulate general practice counselors (LPCs) and MFTs under a composite board.

Sixteen states regulate rehabilitation counseling either as part of the LPC or separately. Thirty states regulate career counseling with the LPC. All fifty states regulate school counselors through their state departments of education.

Forty-three of the forty-five states with counselor licensure use a national examination in their licensure process. They use the National Counselor Examination (NCE) and /or the National Clinical Mental Health Counseling examination (NCMHCE) administered by the National Board for Certified Counselors (NBCC). Visit the NBCC website at www.nbcc.org. Six states accept the NCE or the Certified Rehabilitation Counselor Examination (CRCE). Two states use their own exam.

The Difference Between Counselors and Therapists

The scope of practice for Marriage and Family Therapists in California reads, "...the practice of marriage, family and child counseling shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying and productive marriage and family adjustments. This practice includes relationship and premarital counseling ... methods include, but are not limited to, the use of applied psychotherapeutic techniques to enable individuals to mature and grow within marriage and the family, and the provision of explanations and interpretations of the psychosexual and psychosocial aspects or relations." (California Business and Professions Code, Chapter 13, Section 4980.02)

"The term professional counselor is used to represent those persons who have earned a minimum of a master's degree and possess professional knowledge and demonstrable skills in the application of mental health, psychological, and human development principles in order to facilitate human development and adjustment throughout the life span. Professional counselors prevent, diagnose, and treat mental, emotional or behavioral disorders and associated distresses that interfere with mental health. They help people of all functioning levels grow mentally, educationally, spiritually, and in terms of careers.

Professional counselors are found in a variety of work settings including mental health centers, rehabilitation agencies, private practice, hospitals, elementary through senior high schools, universities, nursing homes, career centers, government, and business and industry. What makes professional counselors unique from their peers in other mental health disciplines is their 'wellness' orientation. While trained to understand pathology and mental illness, professional counselors take a preventive approach to helping people and are trained to use counseling treatment interventions which include principles of development, wellness, and pathology that reflect a pluralistic society." (American Counseling Association, Counselor Licensure Legislation: Protecting the Public)
www.counseling.org/resources/licensure-legislation.htm.

Neither the American Counseling Association (ACA) nor the National Board for Certified Counselors (NBCC) recognizes California's MFT license as a counselor credential.

The Difference Between Credentialing, Licensure and Certification

Licensure is a legislatively established process of credentialing which grants a practitioner the legal right to practice through law. It restricts this right to only those persons who hold a license. State laws vary. Some will protect both the title and practice of the profession (practice acts or laws). Others will protect only the title granted to practitioners (title acts or laws).

Certification grants the use of a title by verifying certain qualifications; it does not involve the authorization to practice a profession nor does it regulate the profession. Credentialing encompasses a broad spectrum of efforts to establish professional training standards and regulations for practice.

A General Practice License Rather Than A Specialty License

The American Counseling Association (ACA), representing 52,000 professional counselors, supports a single, inclusive, scope of practice model of licensure which is representative of the full range of practices engaged in by professional counselors. ACA further believes that it is essential to ensure that all professional counselors, regardless of their chosen specialty area(s), are legally entitled to practice within their scope of expertise.

Specialties should be addressed through national standards promulgated by the profession and regulated through national certifying organizations. This means that ACA does not endorse specialty licensure (e.g. separate licenses for rehabilitation counselors, mental health counselors, career counselors, and so on). This is the model that most states have adopted, but state regulatory boards can choose to develop standards for specialty endorsements and rules for how professional counselors can advertise themselves in relation to specialties. (Counselor Credentialing Laws: Scopes of Practice, Language and Tiers, ACA, 1995)

A Possible Solution for California's Licensure Dilemma

The following is a draft proposal presented as a starting point for a movement toward general practice counselor licensure in California:

- Because it is the intent of the Legislature to "protect the public from incompetent, unethical and unprofessional practitioners" (CA Business and Professions Code Division 2, Chapter 13, Article 1, 4980.34);
- Because it was the intent of the legislature in amending the Marriage, Family and Child Counseling law in 1986 that it would serve as a "model professional licensing standard" and "the Legislature would continue to upgrade all other mental health professions" and "apply these standards as may be appropriate to those professions" (AB 3657, Section 1, (c);
- Because in the state of California there is a vital public need for competent counselors with a range of skills and knowledge beyond those recognized in the current law governing Marriage and Family Therapists, Social Workers and Educational Psychologists;
- Because 45 states license "Professional Counselors" or "Mental Health Counselors", who address a variety of counseling issues, and 38 of these states use the National Counselor Examination (NCE), administered by the National Board for Certified Counselors (NBCC), for licensure and certification, and because counselors who meet the licensing requirements of 45 states cannot move to California and practice unless they become Marriage and Family Therapists;

Therefore, it is proposed that the Legislature bring its licensing requirements in line with 45 other states by adding "Licensed Professional Counselor"(LPC) to the existing law.

"Licensed Professional Counselors" would be defined as all Master's level counselors not covered by current California licensure who meet the following requirements:

1. Education: Completion of a regionally accredited Master of Science in Counseling program (or a related field) with a minimum of 48-semester (or 72 quarter) units with specified counseling coursework;

2. Examination: Successful passage of the National Counselor Exam (NCE);
3. Ethics: Compliance with the Code of Ethics of the ACA and NBCC;
4. Experience: Document two years of post-masters counseling experience with 3,000 hours of work as a counselor and 100 hours of face-to-face supervision over the two year period.

All counselors with a current designation as National Certified Counselor (NCC) by the National Board for Certified Counselors (NBCC), Certified Rehabilitation Counselor (CRC) by the Commission on Rehabilitation Counselor Certification, Registered Professional Counselor (RPC), Registered Professional Career Counselor (RPCC) or Registered Professional Rehabilitation Counselor (RPRC) of the California Registry of Professional Counselors and Paraprofessionals, or licensed counselors from other states would be automatically accorded the designation of Licensed Professional Counselor (LPC) at the time of the passage of this legislation.

After becoming licensed as a Licensed Professional Counselor, practitioners could earn a specialty designation, such as Licensed Professional Career Counselor, Licensed Professional Rehabilitation Counselor, etc., by meeting the standards determined by the professional organization of that specialty, or hold a certificate from the state or national credentialing body of the specialty.

The Background of Counselor Licensure Efforts in California

In 1984 the CA Business and Professionals Code was amended to require career counselors to be licensed as employment agencies. Requirements for licensure included a high school diploma, a $10,000 bond, a $300 exam on running an employment agency, and an annual fee of $300. In 1988 California Career Development Association (CCDA) member, Norma Zuber, led an effort to enact an appropriate career counselor law (A.B. 4638), which would incorporate the standards set by the National Career Development Association (NCDA) and the National Board for Certified Counselors (NBCC), including the National Career Counselor Examination (NCCE). This bill died in committee. Some of the resistance was due to the legislature's reluctance toward regulation of any industry, lack of documented numbers of potential licensees, and lack of complaints from the public about career counselors. Although a professional career counselor license was not achieved, the legislature did become aware of the inappropriate inclusion of career counselors with employment agencies and in the early 1990's career counselors were deregulated from this unfair situation.

The California Registry for Professional Counselors and Paraprofessionals

Because of the need to identify professional career counselors for the public and for legislators, a group led by Robert Swan, a counselor educator at CSU Long Beach, established the California Registry. The Registry would provide a voluntary certification opportunity for career and rehabilitation counselors. It was established under the California Association for Counseling and Development (CACD) Education Foundation in 1990. The California Rehabilitation Counselors Association (CRCA) joined the California Career Development Association (CCDA) in setting the standard of practice for their members who would apply to The Registry. CCDA set

requirements closely aligned with those of NBCC. CRCA used the standards of the Commission on Rehabilitation Counselor Certification (CRCC).

The Registry, which is administered by a volunteer staff and Board of Directors, evaluates applicants, administers examinations and maintains a web site with a directory of those who meet the standard. It currently has 111 Registered Professional Career Counselors (RPCCs), 18 Registered Professional Rehabilitation Counselors (RPRCs) and 121 Registered Career Paraprofessionals (RCPs). In Fall 2000 a third professional category was added. The Registered Professional Counselor (RPC), with requirements similar to the Licensed Professional Counselor (LPC) as it is defined by other states, allows for general practice counselors to join The Registry. There are currently 44 RPCs in The Registry.

The Current Licensure Effort Was Sparked By Three Emerging Factors

- Factor #1: Since its inception in 1990, The Registry has received inquiries from counselors licensed to practice in their state, planning to move to California and expecting reciprocity. Dean Porter, Executive Director, found herself advising several incredulous callers a week that, in order to be licensed in CA, they must now specialize in Marriage and Family Therapy (MFT), necessitating coursework, extra supervision, a unique CA exam, etc. These calls compelled her to study licensure in other states. From this look at licensure across the country, Dean concluded that California is clearly out of sync with the rest of the country when it comes to licensure of counselors. Forty-five states have a general practice counselor license, most often called the Licensed Professional Counselor (LPC). Our state's only licenses are for Marriage and Family Therapists (MFTs), Educational Psychologists and Social Workers. See CA Business and Professions Code, Chapter 13, sections 4980 - 4989. www.leginfo.ca.gov.
- Factor #2: In 1992 the federal government decreed that, in order to receive federal funding, agencies (including the State Department of Rehabilitation) must have licensed or certified rehabilitation counselors.
- Factor #3: In 1998 the legislature approved a bill submitted by the California Association of Marriage and Family Therapists (CAMFT) to change the title from MFCC to MFT. Now that California's law names only therapists, the timing may be right to introduce a counseling law, because counseling is different than therapy.

In 1998 the California Career Development Association (CCDA) Board endorsed a draft proposal (page 6 of this document) for a general practice counseling bill. It suggests an educational requirement of a master's degree in counseling (or a related field) with 48 semester-units (72 quarter-units) and use of the NCE for the examination requirement. Since the proposed license would be a general practice counseling license and since the California Association of Counseling and Development (CACD) would represent a larger constituency than the California Career Development Association (CCDA), it was determined that the licensure effort be launched by CACD. In 1999 CACD appointed a Licensure Task Force, to be chaired by Martin Rosenberg, with $500 to cover its expenses.

In 2000 the CACD Executive Council endorsed the concept of counselor licensure legislation, authorized CACD joining a coalition seeking licensure, and allocated $2,000 to cover licensure

retreat expenses. Task Force members contacted ACA and NBCC regarding model legislation and available technical support, consulted with the chairs of the recent licensure efforts in Pennsylvania and New York, met with the consultants for the California State Senate Business and Professions Committee and the Assembly Consumer Protection Committee, where the comprehensive Sunrise Questionnaire was received, presented licensure workshops at conferences, distributed a survey, resulting in over 200 members signing up to help, and contacted the Board of Psychology regarding Psych Interns' potential for licensure.

In 2001 a licensure retreat, hosted by Susan Zgliczynski at University of San Diego, was held with over 50 counselors of many specialties attending. Representatives of NBCC and ACA spoke about licensure from a national perspective. The following teams of counselors were formed: A six-month leadership team to plan a Northern California retreat for September 2001, a team to produce a licensure brochure, a database team (200+ counselors are now in a database), a communication person (an e-group is in place), a funding team, and a team to address the Sunrise Questionnaire. The CACD Ed Foundation allocated $1300 to produce and distribute a counselor licensure brochure.

Recommendations For Next Steps

Before proceeding with legislation the following questions need to be answered by California counselors:

1. Are there enough counselors who want LPC licensure badly enough to give the time and money, over a period of years, that this is going to take?
2. Are there sufficient numbers of potential LPCs to get the attention of legislators?
3. Can the case be made that the public is being harmed under the current circumstances?
4. Can counselors agree on what they want?

If the answers are "yes", a coalition of representatives of California counseling organizations needs to be formed to accomplish the following with the help of the existing teams:

- Assign elements of required documentation (Sunrise Questionnaire, a 35-page request for a license) to those with relevant expertise
- Develop the necessary funding
- Agree upon working definitions of counseling tasks, functions, requirements, and competency measurement
- Write and circulate a draft of the required documentation to coalition members for review and consensus.
- Collect documentation of cases where consumers have been harmed
- Develop a timeline for introduction of legislation
- Develop "talking points" to be used to educate counselors and legislators
- Develop language to be included in a bill
- Build grassroots support of a bill
- Select a lobbyist and an author for a bill

Conclusion

Counselors who would like to help get legislation for the Licensed Professional Counselor (LPC) designation in California should complete and submit the California Licensure sign-up form to indicate ways in which they are willing and able to become involved. The experience of other states tells us that we need to build a large grassroots organization with a well organized database, raise sufficient funds to hire a lobbyist, collect documentation of consumers who have been harmed by untrained or unethical practitioners, build consensus among counselors so that we speak with one voice, and submit clearly written legislation.

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